

Explanation of Proposed Action

Revisions to the Montana Visibility Plan

- for the -

Incorporation into the State Implementation Plan

October 20, 2011

Introduction

The Department of Environmental Quality (Department) is proposing to revise the Montana Visibility Plan (Plan). The current Plan addresses visibility protection control measures involving the issuance of permits to major stationary sources of air pollution and visibility monitoring of mandatory federal class I areas. The proposed revision includes a reference to BACT as the current visibility mitigation measure for open burning administered through the Department's open burning permit program. Additional non-substantive revisions include administrative updates to rule citations, board affiliation, and grammar / punctuation edits.

Background

In 1999, the Environmental Protection Agency (EPA) promulgated revisions to its visibility protection rules found in 40 CFR 51.301 *et seq* ("Regional Haze Rule" or "RHR"). These revisions included requirements for additional visibility protection in and near mandatory federal class I areas from anthropogenic sources resulting in regional haze. Montana is subject to the RHR requirements in 40 CFR 51.308. However, in 2006, the Department decided not to fulfill the RHR requirements. As such, EPA is developing Montana's visibility protection plan for regional haze as a federal implementation plan (FIP).

The Department agreed to assist EPA with explaining the current state visibility protection strategy regarding smoke from major and minor open burning sources. The Department believes additional rulemaking is unnecessary because visibility protection is currently being afforded through the existing open burning permit program in ARM 17.8.601, *et seq*. The text below explains the regulatory infrastructure that supports the Department's proposed action.

Explanation

The Department administers the open burning rules set forth in ARM 17.8.601, *et seq*. The Board of Environmental Review (BER) originally adopted these rules in 1982 for the purpose of regulating smoke emissions (including fine particles) from major sources of open burning. Major sources of smoke are typically defined as large forest land owners/managers such as the state and federal governments and large timber companies. No agricultural land owners currently are subject to open burning permit rules.

The core provision of the open burning regulations is the definition of Best Available Control Techniques (BACT) found at 17.8.601(1). BACT is an established set of open burning techniques and methods that is intended to limit emissions to protect the National Ambient Air Quality Standards (NAAQS) and impairment of visibility from smoke particulates. BACT applies to both major and minor sources of open burning.

Sources meeting the definition of a major open burner are issued an annual permit outlining the requirements of BACT. Sources not meeting the definition of a major open burner are considered minor open burners. Minor open burners may include sources such as landfills, trade waste burners, emergency operations, commercial film activities, fire fighter training activities, etc. The Department regulates minor open burners, in part, through the operation of a 1-800 open burning hotline that is updated as necessary to minimize smoke particulates and avoid smoke impacts in and near class I federal areas.

Specifically, BACT sets forth techniques and methods for controlling anthropogenic sources of emissions by minimizing smoke production and avoiding smoke impacts(17.8.601(a)(i)-(x)). BACT requires, in part, using ignition and burning techniques that increase combustion and reduce smoke emissions. BACT also requires using emission avoidance techniques such as burning when ventilation conditions are optimal.

The Department issues burning restrictions in the fall season (September, October, and November) when ventilation conditions make it difficult to achieve BACT. This action, in part, protects visibility during the twenty percent worst (poorest visibility) days of the year in Class I federal areas. Additionally, in winter season (December, January, and February), the Department provides case-by-case conditional approval for open burning that also provides for visibility protection in and near airsheds where class I federal areas exist. The twenty percent best (greatest visibility) days of the year are protected through the BACT techniques and methods that minimize emission and capitalize on atmospheric dispersion techniques in and near airsheds where class I federal areas exist.

Compliance with BACT is the responsibility of those conducting the open burning beginning at ignition and remaining throughout the duration of the burn. Therefore, smoke emissions must always be minimized and adequately dispersed for the protection of air quality and visibility. Individuals not in compliance with BACT may be subject to enforcement actions as outlined in ARM 17.8.601 *et seq.*